

Safer Passing Law

Protecting people cycling, walking & using wheelchairs

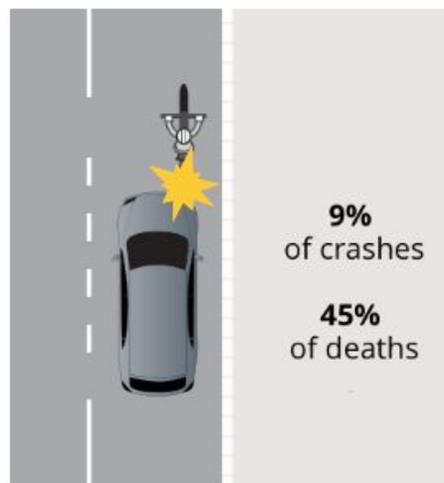


Cycling and walking are popular activities enjoyed by the majority of people in British Columbia. Almost 70% of adults in BC ride a bicycle at least once a year and 42% at least once a month. Many people would like to cycle more but don't because they are afraid of traffic.

- Research for the BC Road Safety Strategy found that “Since 2002, there has been virtually no progress in achieving better injury and fatality outcomes for pedestrians and cyclists”¹

Research elsewhere indicates that:

- Close passes are involved in 3 of the 5 types of crash that cause serious cyclist injuries and death²
- Hit from behind incidents account for **45% of fatal crashes** involving people cycling³
- Close passes account for almost **1/3** of the **threatening encounters** people cycling have with those driving⁴
- Close passes are a particular problem in **rural** areas accounting for almost **50% of incidents**⁵
- People who cycle more slowly (**under 13 km/h** vs. 19 km/h) report **3 times** as many **near misses**⁶
- Close passes are a greater problem for **women**, who on average cycle more slowly and experience a **50% higher** rate of near misses than men⁷

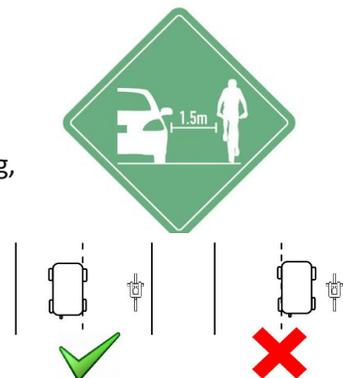


While progress has been made, still few roads in BC have bike lanes or shoulders and many don't have sidewalks especially in rural areas. This often forces people cycling and walking to share the road with high speed traffic. While we strongly encourage governments to invest in protected bike lanes, paths and sidewalks, building them could take many years. In the meantime, a Safer Passing Law would make cycling and walking safer and more comfortable for residents and visitors.

Recommended Safer Passing Law

We are recommending a Safer Passing Law that would require that:

- A motor vehicle driver pass a vulnerable road user (a person cycling, walking, using a wheelchair, riding a horse) by at least **1.5 metres**.
- If there is more than one lane for traffic in the same direction, a motor vehicle driver would have to have to pass in the lane next to the one a vulnerable road user is traveling in.



On some roads within communities, there may not be space for motor vehicles to pass vulnerable road users by 1.5 m. While several other jurisdictions require a minimum passing distance of 1m for speeds 50 km/h or less, for safety reasons, it is worth considering speeds of 30 km/h or less for a passing distance of 1m. When the impact speed of a crash rises from 30 km/h to 50 km/h, the fatality risk to a pedestrian increases by five to eight times.⁸ This would also be consistent with the low speed vehicle pilots planned for Qualicum Beach and Chase. During these pilots,

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people will be able to use golf carts on some public roads. Drivers will be required to slow to 30 km/h when passing a golf cart.⁹

Enabling Education and Enforcement

The majority of drivers already pass people cycling and walking in a safe manner but the few who do not pose a potentially fatal risk to vulnerable road users. A Safer Passing Law would help educate those who are unaware of how to pass safely and enable enforcement when needed.

→ Police initiatives to tackle drivers who pass cyclists too closely could **prevent up to 28% of the crashes that kill and seriously injure cyclists**, according to an analysis of crash data¹⁰

Safer Passing Distance Laws Common in North America

Safe passing distances have been specified by over 27 jurisdictions in North America, including Ontario, Quebec and Nova Scotia as well as several in Europe.

Safe passing laws have often specify a minimum distance of 1 metre or 3 feet (0.91m) but a growing number of jurisdictions are specifying a minimum distance of 1.5 metres in at least some situations. Especially at higher motor vehicle speeds, 1.5 metres provides a greater margin for error. The air turbulence from large vehicles travelling at high speeds can knock a cyclist off balance. A cyclist fatality in Maine was likely caused by the draft of a tractor-trailer passing at a distance of around 4 feet (1.22m). Maine's law requires motorists passing cyclists to stay at least 3 feet (0.91m) away.¹¹

Jurisdiction	Minimum Passing Distance
Spain, Portugal	1.5m ¹²
Queensland, AU	1m < 30km/h, 1.5m > 30km/h ¹³
France	1m in urban areas, 1.5m elsewhere ¹⁴
Quebec	1m ≤ 50km/h, 1.5m > 50km/h ¹⁵
South Dakota	6ft (1.83m) on roads with posted speed greater than 35mph (56.3kph) 3ft (0.91m) on roads with posted speed of 35mph or less ¹⁶
Pennsylvania	4ft ¹⁷ (1.22m)
Ireland	1m ≤ 50km/h, 1.5m > 50km/h ¹⁸

Following the death of rising cycling star Ellen Watters on a training ride in December 2016, the New Brunswick legislature is moving quickly to pass a safer passing distance law.¹⁹

The League of American Bicyclists' Model Safe Passing Law includes:

If there is more than one lane for traffic proceeding in the same direction, move the vehicle to the lane to the immediate left, if the lane is available and moving into the lane is reasonably safe.²⁰

They state that it is an improvement as:

It requires drivers of motor vehicles to treat a person on a bicycle like any other vehicle when traveling on a road with more than one lane traveling in the same direction. This is modeled after the laws of Nevada (NRS 484B.270(2)) and Delaware (4116) and is important for at least two reasons: 1) the majority of people killed while biking are killed on arterial roads (57% in

2013), which are likely to have more than one lane traveling in the same direction, and 2) the most common reason a bicyclist is killed is an unsafe pass by a motor vehicle driver. We believe this rule can be easily enforced, easily made clear to the public, and is likely to save lives.

The Nevada's safe passing law requires moving the vehicle into the immediate left lane, if there is more than one lane in the same direction.²¹

Ottawa bike police are using a sonar device to measure the distance between drivers and cyclists.²² As in Ontario and other jurisdictions, we also recommend an educational campaign be undertaken to ensure motorists are aware of the law before enforcement campaigns.

Clarity for People Driving, Cycling and Walking

A cyclist can do little to avoid a hit from behind, and an objective, easy to estimate minimum passing distance is better than a subjective standard of safe driving behavior for much the same reason that a maximum speed limit is.

Not only does the MVA not currently define a minimum passing distance for motorists overtaking cyclists, there is confusion as to whether the language in the Act even applies to passing cyclists. Section 157 states that an overtaking vehicle "must cause the vehicle to pass to the left of the other vehicle at a safe distance." Bicycles, however, are not "vehicles" by definition under the Act at s. 1. In any event, even where courts have accepted that motorists have an obligation to pass cyclists safely, what constitutes as a safe passing distance remains unclear.

A safer passing law would provide clarification that a motorist has a duty to leave a safe passing distance when passing a cyclist as well as definitive guidance on the minimum such distance. This avoids subjective assessments by motorists as to what constitutes a safe distance, and provide an objective standard for enforcement and education.

Case Study Dupre v. Patterson

Ms. Patterson's car collided with Ms. Dupre's bicycle while her car was trying to pass. Ms. Dupre, testified that the car passed too closely and struck her handlebars and she was thrown from her bike and injured. Ms. Patterson testified that she left "lots of clearance" when passing Ms. Dupre. Defence counsel's theory was that Ms. Dupre swerved and collided with the side of Ms. Patterson's car.

The Court's remarks implicate the problems with subjective interpretations of drivers and the lack of clarity in the Act as to safe passing distance: "I do not know what she means by 'lots of clearance.' What she believes is 'lots of clearance' may in fact be completely inadequate." The judge found the motorist at fault.²³

BC Road Safety Act

Modernizing our Motor Vehicle Act will help BC reach the targets of the Provincial Government's Road Safety Strategy and Vision Zero. It will reduce collisions, injuries and death and help control ICBC premiums that have recently skyrocketed. The legislation, reframed as the Road Safety Act, would protect all road users, including our most vulnerable: those walking and cycling.

More at bcc.bc.ca/motor_vehicle_act

Endnotes

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8. British Columbia Road Safety Strategy 2015 and Beyond, p 24.
9. <https://www.kamloopsthisweek.com/chase-mayor-expects-golf-carts-return-streets-spring/>
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22. <http://ottawacitizen.com/news/local-news/ottawa-police-to-drivers-beware-the-one-metre-bike-rule>
23. Dupre v. Patterson, 2013 BCSC 1561

About the BC Road Safety Law Reform Group

The BC Road Safety Law Reform Group is comprised of the Trial Lawyers Association of BC, the British Columbia Cycling Coalition (BCCC), HUB Cycling, and health researchers. Our organizations represent approximately 50,000 supporters across BC.

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